

Message Text

CONFIDENTIAL

PAGE 01 USBERL 00312 290651Z
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
-----290655Z 106620 /21

R 281535Z JAN 77
FM USMISSION USBERLIN
TO AMEMBASSY BONN
INFO SECSTATE WASHDC 3919
AMEMBASSY LONDON
AMEMBASSY NEW DELHI

C O N F I D E N T I A L USBERLIN 0312

EXDIS

E.O.11652: GDS
TAGS: PARM TECH ENRG GW IN WB
SUBJECT: BORSIG CASE

REF: BONN 1572

1. RELEVANT BERLIN LAW READS " PLANT AND EQUIPMENT
SPECIALLY DESIGNED FOR THE PRODUCTION AND/OR CONCENTRATION
OF DEUTERIUM OXIDE" (BK/O (61) 8 AS REVISED BY BK/O (67) 6
AND BK/O (72) 8 OF 22 JUNE 1972). THIS REQDS SUBSTANTIALLY
THE SAME AS FRG TEXT QUOTED IN REFTEL. HOWEVER,
CRITICAL DIFFERENCE IS THAT AK LICENSING PROCEDURES HAVE
INTERPRETED THE LAW MORE STRINGENTLY THAN APPEARS TO HAVE
BEEN THE CASE IN FRG. BORSIG ALREADY KNOWS THAT COM-
PRESSORS WILL NOT BE LICENSED FOR EXPORT FROM BERLIN AND
FOR THAT REASON IS PURSUING THE FURNISHING OF COMPRESSORS
FROM THE FRG WHERE AK REGULATIONS DO NOT APPLY.

2. IF THE ASSURANCES RECEIVED BY BONN THAT THE FRG WILL
BAR EXPORT OF THIS COMPRESSOR FROM FRG TERRITORY PROVE
CORRECT, WE SEE NO PROBLEM IN BERLIN. BORSIG'S PRESENT
COMPALINT IS THAT IT WILL COST THE FIRM MORE TO DELIVER
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 00312 290651Z

FROM THE FRG THAN FROM BERLIN. SHOULD THE FRG BAR EXPORT
AS BERLIN HAS DONE, THAT GROUNDS FOR COMPLAINT WOULD BE
ELIMINATED.

3. BORSIGN WOULD HAVE NO POSSIBILTY OF FILING LEGAL SUIT
AGAINST THE AK AS NO COURT CAN EXERCISE JURISDICTION OVER
AK AND COMPANY WOULD HAVE LITTLE GROUNDS FOR A PUBLIC

RELATIONS CAMPAIGN AGAINST ALLIES AS AK LICENSE REQUIREMENT WAS KNOWN FROM THE BEGINNING. OUR PREVIOUS CONCERN, THAT ALLIES WOULD APPEAR NEGATIVE WHILE FRG STOOD OFF TO SIDE AND DID NOTHING, HAS RESOLVED ITSELF. WE HAVE NO EXPERTISE AS TO WHETHER BORSIG MIGHT HAVE GROUNDS FOR SUIT AGAINST FRG ON BASIS THAT FRG REFUSAL TO GRANT EXPORT PERMISSION CONSTITUTED SOME SORT OF EX POST FACTO CONTROL PREVENTING FULFILLMENT OF ALREADY CONCLUDED CONTRACT.

4. BERLIN SENAT HAS NOT REQUESTED THE GROUNDS FOR ALLIED FAILURE TO APPROVE A LICENSE FOR THE EXPORT OF THIS COM-PRESSOR, NOR HAVE THEY COMPLAINED THAT ALLIES HAVE ACTED UNFAIRLY IN THIS MATTER. WE SHALL AGAIN REMIND THE SENAT THAT ALLIED LICENSING DECISIONS TAKE FULL ACCOUNT OF INTERNATIONAL AGREEMENTS AND UNDERSTANDINGS GOVERNING NUCLEAR EXPORTS, A FACT WHICH THEY HAVE ALREADY LEARNED TO APPRECIATE.

5. AS TO WHY BORSIG STILL APPEARS TO BE CONTEMPLATING SHIPMENT FROM THE FRG WE CAN ONLY SPECULATE. THEY MAY BE LAYING GROUNDS FOR DAMAGE SUIT, OR THEY MAY NOT BE CONVINCED THAT FRG OPPONENTS OF SHIPMENT WILL WIN OUT IN ANY INTRA-GOVERNMENTAL MANEUVERING WHICH MAY BE INVOLVED. WE DOUBT THERE IS ANY LEGAL RESTRAINT THAT CAN BE APPLIED BY KOMMANDATURA IN BERLIN THAT WOULD AFFECT LEGAL ACTIVITIES CONDUCTED BY THE FIRM IN THE FRG.

DAVIS

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXPORTS, COMPRESSORS, NUCLEAR REACTORS, HEAVY WATER
Control Number: n/a
Copy: SINGLE
Sent Date: 28-Jan-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USBERL00312
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770032-0745
Format: TEL
From: USBERLIN
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t1977016/aaaaafbz.tel
Line Count: 88
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: c25f70da-c288-dd11-92da-001cc4696bcc
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: EXDIS
Reference: 77 BONN 1572
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 02-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3617520
Secure: OPEN
Status: NATIVE
Subject: BORSIG CASE
TAGS: PARM, TECH, ENRG, GE, IN, WB, BORSIG
To: BONN
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/c25f70da-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009